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7 Attorneys for Defendant: BRIAN WILLIAM ELM

FILED
DISTRICT COURT OF GUAM

JAN 25 2006 *MWM*

MARY L.M. MORAN
CLERK OF COURT

UNITED STATES DISTRICT COURT OF GUAM

9 UNITED STATES OF AMERICA

10) Criminal Case No. CR-05-00016 *SP*

11 Plaintiff,

)

12 vs.

)

13 CHRISITOPHER M. ESPINOSA,
14 JONATHAN E. CANOVAS, and
15 BRIAN WILLIAM ELM,

) **DECLARATION OF ATTORNEY JOHN**
16 T. GORMAN

17 Defendant.

)

DECLARATION

18 I, JOHN T. GORMAN, hereby declare as follows:

19 1. That I am the Federal Public Defender for the District of Guam and have
20 held this position since November, 2003. In addition, I was the Assistant Federal Public
21 Defender for the District of Guam from September, 1997 to November, 2003.

22 2. That I have been a criminal defense attorney from August, 1992 to present
23 and am licensed to practice law in the State of Pennsylvania, the Ninth Circuit Court of
24 Appeals and the U.S. District Court in Guam.

25 UNITED STATES OF AMERICA, Plaintiff v. BRIAN WILLIAM ELM, Defendant
Criminal Case No. CR-05-00016 *10530*
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ORIGINAL

1 3. That I have been an almost daily visitor to the Agana Federal Detention
2 Facility from September, 1997 to present.

3 4. That there are two areas currently being utilized at the Agana Federal
4 Detention Center for attorney-client consultations. The first area is an open courtyard, with
5 picnic style tables under a canvas tent. This courtyard is extremely hot and uncomfortable in
6 dry weather. During rainy weather, it provides inadequate shelter from the elements and it is
7 nearly impossible to keep clients and important paperwork dry. It is open air and often
8 crowded with other attorneys, prison guards and employees and other detainees and
9 effectively prevents confidential attorney-client communication.
10

11 5. That the second area now being used for attorney-client consultations is an
12 indoor room designed for video arraignments. There are two holding cells directly across a
13 small hallway from this room. The most glaring deficiency in this area is that it does not
14 provide a soundproof room for confidential attorney-client consultation. Thus, prison guards,
15 prison employees and other inmates working and walking just outside this room are able to
16 hear confidential attorney-client consultations.
17

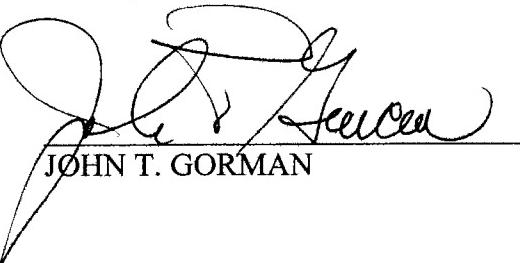
18 6. That the above two areas currently available for attorney-client consultation
19 are inadequate for the reasons stated above. Most importantly, neither area offers a
20 confidential setting for attorney-client consultations. The majority of our clients are
21 cooperating with the government and the nature and extent of their cooperation must be kept
22 confidential to protect their safety and the value of their information. Our remaining clients
23 are contesting the government's charges through trial by jury, and confidentiality is of
24 paramount importance to them also. This lack of confidential attorney-client consultation
25 effectively undermines the formation of a trusting attorney-client relationship and hinders true

1 communication and a client's assistance in their own defense, thus negatively implicating our
2 clients' constitutional rights to effective counsel and due process of law.

3 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING
4 IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

5 DATED: Mongmong, Guam, January 23, 2006

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JOHN T. GORMAN

UNITED STATES OF AMERICA, Plaintiff v. BRIAN WILLIAM ELM, Defendant

Criminal Case No. CR-05-00016

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